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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,411	04/18/2001	Sylvain Kravtchenko	05725.0822	6835

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EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 04/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/836,411

Applicant(s)

KRAVTCHENKO ET AL.

Examiner

Eisa B Elhilo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-48 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

- 1 This action is responsive to the amendment filed on February 11, 2003.
- 2 Objection to claim 28 is withdrawn because of the applicant's amendment.
- 3 The terminal disclaimer filed on 2,21,2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on application No. 09/836,600 has been reviewed and is accepted. The terminal disclaimer has been recorded.
- 4 Claims 1-4 and 6-48 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lim et al. (US 5,993,491) in view of de la Mettrie et al. (US WO 99/17730), Aaslyng et al. (US 5,948,121) and further in view of Dias et al. (US 6,398,821 B1), for the reasons set forth in the previous office action on paper No. 8, dated 8/13/2002.
- 5 Claim 5 stands objected to for the reasons set forth in the previous office action on paper No. 8, dated 8/13/2002.

Response to Applicant's Arguments

- 6 Applicant's arguments filed on February 11/2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Lim (US' 491) in view of de la Mettrie (WO' 730), Aaslyng (US' 121) and Dias (US' 821), Applicant argues that there is no evidence of a motivation or suggestion to combine the references because the references teach different dye compositions.

The examiner respectfully disagrees with the above arguments because Lim (US' 491) as a primary reference teaches and discloses a hair dyeing composition comprising the claimed

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compound of 1-(4-aminophenyl) pyrrolidine as an oxidation base which may be present in admixture with one or more other oxidation dye precursors, for example, primary dye intermediate or conventional coupling compounds to provide intense coloration to hair (see col. 3, lines 36-52), other oxidation bases such as p-phenylenediamine derivatives (see col. 5, lines 25-37) and hydrogen peroxide as an oxidizing agent (see col. 9, lines 5-10). De la Mettrie (WO' 730) clearly teaches and discloses in analogous art a hair dyeing composition comprising heterocyclic compounds such as pyridine derivatives, pyrimidine derivatives and pyrazole derivatives as oxidation bases (see page 10, lines 23-27), other oxidation bases such as p-phenylenediamine derivatives (see page 6, lines 21-27) and enzymatic oxidizing agents of 2-electron oxidoreductase enzymes such as glucose oxydases and lactates oxydases (see page 4, lines 11-14). Aaslyng (US' 121) in other analogous art teaches a hair dyeing composition comprising 4-electron oxidoreductase enzymes such as laccas enzymes as oxidizing agents (see col. 3, lines 48-67) and Dais (US' 821) in other analogous art teaches a hair dyeing composition comprising peroxidase enzymes as oxidizing agents (see col. 26, lines 5-35). Therefore, there is a motivation to combine the compound of 1-(4-aminophenyl) pyrrolidine as an oxidation base as taught by Lim (US' 491) with other oxidation bases such as p-phenylenediamine compounds as taught by De la Mettrie (WO, 730) in the presence of enzymatic oxidizing agents of 2-electron oxidoreducace as taught by De la Mettrie and 4-electron oxidoreducace enzyme of Aaslyng (US' 121) and peroxidase of Dais (US' 821) since these enzymes are used as oxidizing agents which generate hydrogen peroxide in the dyeing composition and, thus, a person of ordinary skill in the art would be motivated to incorporate these dyeing ingredients in the dyeing composition with a reasonable expectation of success to provide intense coloration to the hair as taught by Lim (US'

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491). Therefore, a prima facie case of obviousness has been established. The examiner advised the applicant to provide a data or showing to indicate that the dyeing composition of the claimed invention demonstrates superior and unexpected results over the closest prior art composition.

7 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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Elhilo

April 14, 2003



LORNA M. DOUYON
PRIMARY EXAMINER